

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DAVID JACKSON,

Plaintiff,

v.

Civ. No. 23-918 JB/GBW

STATE OF NEW MEXICO
Children Youth and Families
Department,

Defendant.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte*. Plaintiff filed suit against Defendant on June 14, 2023, and the case was removed to federal court on October 18, 2023. Federal Rule of Civil Procedure 4(m) provides, in relevant part:

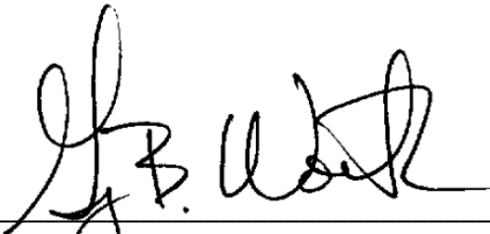
If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In removed cases, the time for tolling the 90-day period begins upon the date of removal. *See* 28 U.S.C. § 1448. More than 90 days have elapsed since this action was removed to district court, and there is no indication that Defendant has been properly served.

Defendant, the Children, Youth, and Families Department (“CYFD”) is a department of the state of New Mexico. *See* N.M. Stat. Ann. §§ 9-2A-1-24. N.M. Stat. Ann. § 38-1-17(C) states, “[i]n any action in which a branch, agency, bureau, department, commission or institution of the state specifically authorized by law to be sued is named a party defendant, service of process shall be made on the head of the branch, agency, bureau, department, commission or institution *and* on the attorney general.” (emphasis added). While in state court, Plaintiff effectuated service on the CYFD on June 14, 2023. *Doc. 1-3* at 1-3. However, Plaintiff never effectuated service on the New Mexico Attorney General. *See generally doc. 1-3; see also doc. 1-4* (electronic communication from the New Mexico Office of the Attorney General dated October 17, 2023, confirming that it had not yet been served in this case).

Plaintiff is therefore directed to show cause why his case should not be dismissed without prejudice for failure to comply with the service and time provisions of Rule 4(m). Plaintiff’s response to the Court’s Order to Show Cause should be filed no later than **October 4, 2024**.

IT IS SO ORDERED.



GREGORY B. WORMUTH
CHIEF UNITED STATES MAGISTRATE JUDGE